



April 28, 2019

Report on Mark Kennedy and Ethical Misconduct

During the past week, the CU community has had the opportunity to meet and interact with Mark Kennedy, whom the Board of Regents (“the Board”) named as the sole finalist for the Presidency of the CU System. During this time, several issues and facts have emerged that were unavailable to the Board and the Search Committee at the time of Mr. Kennedy’s selection which are fundamentally inconsistent with the core values we hold as a University system. These values, specifically of ethical conduct, transparency, diversity, accountability, and integrity, are articulated not only in the Laws and Policies of the Regents, but also in the Regents’ charge to the Presidential Search Committee. The Regents’ charge to the Presidential Search Committee states our president:

sets the direction for the CU system and its campuses and is responsible for creating a culture of ethics, accountability, transparency, and integrity. . . . the president must lead the way, create a community that fosters diversity while confronting society’s hardest questions, place ethics at the forefront of CU’s culture . . . and above all earn the trust of those whom CU educates, employs, and serves.

Indeed, the Laws and Policies of CU’s Board of Regents demand that every member of the CU community uphold “the highest standards of legal and ethical conduct” (Policy 1.C). Further “[t]he University demonstrates its commitment to responsible conduct beginning during the hiring process, and through multiple statements of expected conduct in the workplace.” (APS 2027).



Since being named the sole finalist for the presidency of CU, it is clear that Mark Kennedy misled both the search committee and the Board of Regents, as well as the CU community at large, by (1) presenting inaccurate information about his accomplishments on his CV; (2) omitting information from his CV; and (3) making misleading or entirely inaccurate claims while on our campuses. This behavior demonstrates an inability to adhere to CU's clearly articulated and most fundamental ethical standards. This behavior alone should end his candidacy. Below are the instances of unethical behavior during his time in our community that we can verify to date.

1. Misrepresentation regarding tribal college programs

On his CV, Kennedy claims that he “[m]et with *all* tribal colleges to establish 2+2 Finish in 4 programs for priority degrees” (Kennedy CV, Academic Year 2017-2018)(italics added).

CU Distinguished Professor Elizabeth Fenn stated in an email distributed to the Board of Regents:

More to the point in terms of Kennedy's CV, I was unable to find anyone familiar with the “2+2, Finish in 4” program to which he refers. One well-placed tribal-college contact said the following: “I do not know about the ‘2+2, Finish in 4’ project that he refers to and I doubt that the other tribal colleges do either.” The same contact was unaware of any meetings to “establish” this program. President Kennedy did visit tribal colleges at least once on an annual bus tour undertaken to familiarize new faculty and administrators with the state of North Dakota. These were not business meetings but meet-and-greet encounters in the presence of other new faculty members on the tour.



When asked during the Boulder forum to “[t]ell us the names of the people you met with and approximately when you met them,” Mark Kennedy admitted – contrary to the statement on his CV - that they do not have 2+2 programs at all tribal colleges and could only name one person he met with in regards to this program.

The University of North Dakota (UND) could not confirm the information on Mr. Kennedy’s CV. UND Vice President for Marketing and Communications, Meloney Linder, told the *Grand Forks Herald* after the Boulder forum that UND has a relationship with Cankdeska Cikana Community College but did not name any other tribal college with which UND has established a relationship.

<https://www.grandforksherald.com/news/education/4604703-kennedy-faces-taunts-chants-last-day-tour>

2. Misrepresentation regarding One Colorado

While Mark Kennedy was on campus, *The Denver Post* reported:

Mark Kennedy, the finalist for president of the University of Colorado, said Thursday that he’s reached out to the LGBTQ advocacy organization One Colorado to “counsel and advise him” after receiving criticism for his voting record on those issues while serving in Congress.

At both the Denver and Boulder forums, Kennedy repeated this claim that he reached out to One Colorado, an advocacy group for LGBTQ+ equality, suggesting that he had taken a proactive measure.



However, when One Colorado was asked about whether Mark Kennedy had initiated contact, a representative from the group explained that—contrary to Kennedy's repeated assertions that he had proactively contacted the group himself—in fact, One Colorado had reached out to him:

I'm (Daniel Ramos) an alum of the Boulder and Denver campuses, a tri-Executive at Boulder, and ED of One CO, heard from my LGBTQ folks about Mark Kennedy and so reached out to Regent Kroll about a meeting with Kennedy to talk about LGBTQ issues, our concerns, and what we want in our next president. And we discussed issues of title IX, trans+women's healthcare, and federal nondiscrimination protections since he'd be moving from a state with no protections to a state with some of the best protections for LGBTQ folks in the country.

3. Misrepresentation regarding graduation rates

At the campus forums and in his CV, Kennedy lauded the increase in graduation rates at UND, which he claims experienced an overall increase of 4% in 2017 and 2018. At UCCS, Kennedy specifically said: "our diverse communities have had the same increase in graduation rates under his leadership as other students." UND's published numbers, however, show results are mixed at best.

It is not clear how much the overall increase in graduation rates (2012 cohort) was affected by simply lowering the number of credit hours students needed to graduate. Kennedy's specific claim that the graduation rate of underrepresented groups increased at the same 4% rate as the overall rate is not clearly supported by UND's own reports. According to the UND website, the rate for women increased only 1%; the rates for Asian students



actually *decreased* by 3%; the rate for Native Americans students *decreased* 1%; and the rate for Non-Resident Aliens increased 3% - none of these numbers reflect the “same increase” Kennedy claimed at the UCCS forum.

4-year graduation rate

Enterin g Cohort	Female	Black	Hispani c	Asian	Americ an Indian	NonReside nt Alien	Overa ll
2012*	34	6	8	33	4	35	28
2013 (2017 grads)	39	13	15	35	16	35	32
2014 (2018 grads)	40	29	25	32	15	38	36

*This cohort graduated just before Kennedy began at UND

https://www1.und.edu/research/institutional-research/_files/docs/retention/fyr-overall-2018.pdf

4. Misrepresentation regarding his political activities while in academia.

Mr. Kennedy stated at the Boulder forum that “[my] 9-year track record in academia is starkly different from my voting record.” He made similar statements in other forums.



It is demonstrably false that Kennedy's 9-year track record in academia is starkly different from his voting record. Kennedy began working at Johns Hopkins in 2011 and then at George Washington University in 2012. During that time, he became Treasurer for Tim Pawlenty's 2012 Republican presidential campaign.

Pawlenty eventually dropped out of the president's race and, later in 2012, Mark Kennedy publicly advocated for the Republican nominee to select Pawlenty as Vice President, specifically because Pawlenty "enacted bills and appointed judges to protect life, marriage, and the role of faith in our public square" (powerline blog, below). At the time Kennedy served as Pawlenty's campaign treasurer and advocated that he be selected as Vice President, Pawlenty was known for his anti-LGBTQ, anti-abortion and anti-stem cell research views. Contrary to his repeated claims, less than 9 years ago and while he was in academia, Kennedy did this work and advocacy on behalf of a politician opposed to many ideals around diversity and inclusion central to CU's core values.

Pawlenty's stances in 2012:

<https://www.youtube.com/watch?v=aiK5EljO1uA#action=share>

<https://www.youtube.com/watch?v=6s7WhCjW2g8>

<http://www.p2012.org/candidates/pawlentyorg.html>

Some of Mark Kennedy's public advocacy for Pawlenty to be selected as Vice President while Kennedy was in academia:



<https://www.powerlineblog.com/archives/2012/07/the-case-for-tim-pawlenty.php>

https://www.huffpost.com/entry/tim-pawlenty-vice-president-romney_b_1621132

5. Failure to disclose a pending lawsuit and his position on Title IX

At the CU Denver forum, Kennedy was asked what other matters he omitted from his CV that might cause potential harm to CU. Kennedy did not disclose that UND is currently being sued for Title IX violations.

At the Boulder forum, Kennedy was specifically asked “Can you tell us which proposed revisions [to Title IX] you support and which you oppose?” He declined to answer.

However, reports in both the *Daily Camera* and *Grand Forks Herald* make clear that under Kennedy’s leadership UND has maintained a definition of Title IX and employs practices that make it harder for victims to seek justice —a definition and practice which the CU community has rejected through its policies.

<https://www.dailycamera.com/2019/04/27/cu-system-presidential-candidate-faced-title-ix-complaints-lawsuit-at-und/>

<https://www.grandforksherald.com/news/education/4543584-campuses-state-board-consider-effects-proposed-title-ix-changes>



6. Failure to acknowledge decreased fundraising and donor alienation

The ability of CU's president to successfully perform fund-raising activities and work with funders is a critical component of the role. Kennedy's CV mentions that in "Academic Year 2016-17" he "increased fundraising" to \$40 million (Kennedy CV). His CV does not mention fundraising in his remaining time at UND, however. Fundraising has, in fact, dropped. In fiscal year 2018, fundraising declined to 34.7 million dollars. This fiscal year, the number sits at 33 million dollars with about 2 months left in the fundraising cycle.

During the Faculty Council's meeting with Mr. Kennedy, he acknowledged the drop in fundraising during his tenure but blamed it in part on his application for the Presidency of UCF. News reports confirm, however, that Mr. Kennedy alienated long-time donors to UND with his lack of responsiveness and leadership. For example, one committee of donors supporting the men's golf program described Kennedy's refusal to meet regarding the Ray Richards Golf Course in Grand Forks:

we have requested multiple meetings with President Kennedy. We were told that he would not meet with us until sometime next year. We have other documented instances where President Kennedy simply never responded to our requests. This is disappointing.

(<https://www.grandforksherald.com/news/education/4555637-self-inflicted-wound-und-faces-backlash-over-ray-richards>)

Another major UND donor family (Engelstad) has pledged not to donate to the university as long as Mr. Kennedy is president because, "[f]rankly, the governance and the leadership isn't there[.]"



(<https://www.grandforksherald.com/news/education/4578987-mcgarry-no-engelstad-money-while-kennedy-und>)

7. Refusal to take responsibility for voting against funding for HBCU's

At the UCCS forum, in response to a question about his vote against funding for Historically Black Colleges (HBCUs), Kennedy responded:

I know there's a question out there of voting against some 85 million dollars increased funding for historically Black and Hispanic colleges that is a mischaracterization of what that vote was. Anytime there was[sic] votes for funding on that, I voted for it.

Kennedy goes on to say that, in fact, there was a 29% increase in federal funding for HBCUs during his six years in Congress. But the record is clear that Mr. Kennedy voted against legislation that would have increased funding for HBCUs as well as tribal colleges HBCUs (e.g., his March 2006 vote against a revision of the *Reverse the Raid on Student Aid Act [Bill HR 609, Amendment 772]* that sought to improve graduation rates at HBCUs).

Regarding his statement of a 29% increase in federal funding for HBCUs during his time in Congress, publicly-available federal data from the National Center for Education Statistics, Integrated Postsecondary Education Data System shows a marked decrease in Federal Funding per FTE Student at Public and Private Nonprofit Four-Year HBCUs, especially when compared to non- HBCUs (see e.g., <https://www.acenet.edu/news-room/Documents/public-and-private-investments-and-divestments-in-hbcus.pdf>).

8. Claim that signing the Pomona letter and issues related to DACA are not relevant at UND because of “North Dakota sensibilities”



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At the Faculty Council meeting Kennedy was asked if he signed the Pomona letter:

Kennedy: *I do not know that I did?*

Addison: *Do you know what the Pomona letter is?*

Kennedy: *Tell me about it*

First at the Faculty Council meeting, and then repeatedly at forums across our campuses, Kennedy asserted that signing the Pomona letter would not make a difference and that this was not an important issue for members of the UND community because of “North Dakota sensibilities.” However a public letter to President Kennedy asking specifically for him to sign the letter and support DACA was published in the *Grand Forks Herald* on September 11, 2017. Flint Devine wrote on behalf of a student organization at UND, explaining why doing so was important to the UND community.

In closing, Devine writes:

The addition of President Kennedy's signature to Pomona College's "Statement in Support of the Deferred Action for Childhood Arrivals (DACA) Program and our Undocumented Immigrant Students" would signify that the University of North Dakota truly seeks to be a leader and champion of diversity in this state.

<https://www.grandforksherald.com/opinion/letters/4324928-letter-president-kennedy-please-support-daca>

Summary

Although it is evident, as Regent Sharkey has indicated, that a deliberate process led the Board to advance Mark Kennedy as the sole finalist for the Presidency of the University of Colorado System earlier this month, the Board



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did so without the above information, which delineates several instances in which it appears that Mr. Kennedy has already run afoul of Regent Law and Policy regarding ethical behavior and integrity. Of note, these are just the instances we can verify at the moment. Faculty Council brings this information to the Board in the spirit of shared governance and our deep commitment to the future of the University of Colorado.

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